WILLS—BEQUEST OF "WEARING APPAREL"—WHAT IS INCLUDED IN.—After making various other bequests of small things, the twenty-fifth clause of the will gave to three relatives, certain named property, including "my wearing apparel." The personal property consisted of earrings, finger rings, bar breast pins, a watch and chain, and a bracelet, of considerable value. *Held,* to include the watch and chain, but not the rest. *In re Holden* (1919) 178 N. Y. Supp. 548.

The cases, construing the words "wearing apparel," are many and there is a seeming utter confusion as to just what is included in this class. In addition to the cases reviewed by the court in its opinion, various other cases might be cited which only increase the confusion surrounding the problem as to the proper construction of the words "wearing apparel." Many statutes provide that "wearing apparel" of an insolvent or bankrupt shall be exempt, and in general jewelry is not included in these exemptions. *In re Everleth,* 129 Fed. 620; *Stewart* v. *McClung,* 12 Ore. 431; *Smith* v. *Rogers,* 16 Ga. 479, where held would not include two watches, and doubtful whether it would include one. *In re Leech,* 171 Fed. 622, held that it depended upon whether the jeweled rings were acquired and used as ornamental apparel, or as an investment of value as a matter of business. Other cases hold that jewelry, of one form or another, is included in this class. *United States* v. *One Pearl Chain,* 139 Fed. 513, held a pearl chain was included; *First National Bank* v. *Robinson,* (Tex.) 124 S. W. 177, held a diamond ring was included; *Phillips* v. *Phillips,* 151 Ala. 527, held a ring, watch and chain were included; *Mack* v. *Parks,* 8 Gray 517, held a watch was included; *In re Evans and Co.,* 158 Fed. 153, includes a gold watch and chain, cuff links, watch fobs, gold ring with diamond setting, scarf pins and shirt studs; *Brown* v. *Edmonds,* 8 S. D. 271, held "wearing apparel" includes the idea of ornamentation, and therefore includes a watch and chain; *Sellers* v. *Bell,* 94 Fed. 801, held "wearing apparel" includes whatever is necessary to a decent appearance and to protection against exposure to the changes of weather and also what is reasonably proper and customary in the way of ornament. *Sawyer* v. *Sawyer,* 28 Vt. 249, cited by the court, seems to conflict with the instant case as to certain pieces of jewelry, holding a bosom pin is included, but excluding a watch and chain, key and seals, or finger ring. The court, in the present case, applied the proper test by inquiring into testatrix's intent as manifested by the whole will,—namely, considering all the provisions of the will—what did she intend to include? The fact that she made various small bequests of like personal property, and then made no other disposition of this jewelry shows she intended it to be included in this provision, and the court will not hold her intestate in regard to it. This case accords with *In re Dox's Estate,* 30 Pa. Sup. Ct. 393, where the court held a bequest of "wearing apparel" did not include jewelry because testator put in a clause, giving the residue of his estate to his next of kin, which showed his intent not to give the jewelry in the prior bequest. The confusion in these cases is more apparent than real, inasmuch as the decision in each case must stand upon its own facts; and, so far as there is a conflict, it is between those cases which seek to arrive at

testator's intent by considering the whole will, and those cases which lay stress upon the matter of definition of the term "wearing apparel."

WILLS—CONTINGENT WILL.—Deceased wrote a letter to her aunt, asking her to dispose of her property. The first part of the writing was as follows: "On Sunday evening I go to St. Elizabeth's Hospital to have a slight operation. I do not anticipate any trouble, but no one never knows. If anything should happen to me, I want you * * * to do this for me. See that everything I have * * * goes to George B. G." Two days from the date thereof the writer was taken to the hospital, where the operation was performed, and some time later she left the institution fully recovered. About six months later she died. The letter was never sent to the aunt, but was delivered by deceased to George B. G., who offered it for probate. *Held,* a contingent will, and hence not entitled to probate. *Walker* v. *Hibbard,* (Ky., 1919) 215 S. W. 800.

The court distinguished those cases, on the one hand, where the instrument is written only to make provision against a death that might occur on account of, or as a result of, the specific thing assigned as a reason for writing the will, in which case it will be a contingent will, and those cases, on the other, where the causes assigned for writing it are merely a general statement of the reasons or a narrative of the conditions that induced the testator to make his will, in which case it will be a perfect testamentary instrument. In the latter class the Kentucky court placed *Likefield* v. *Likefield,* 82 Ky. 589; *Bradford* v. *Bradford,* 4 Ky. Law Rep. 947; and *Forquer's Estate,* 216 Pa. St. 331; and in the former *Maxwell* v. *Maxwell,* 3 Metc. (Ky.) 101, and *Morrow's Appeal,* 116 Pa. St. 440, as well as the instant case. For a discussion of the question involved see 18 MICH. L. REV. 168, where *In re Tinsley's Will* (Ia., 1919), 174 N. W. 4, was considered. It will be noted that the *Tinsley* case was rightly decided if the test laid down in the instant case is applied, for the words there used, namely, "In case of any serious accident," are general and not specific. In the case at hand the court was correct when it held that the declarations of deceased at the time she delivered the letter to the supposed devisee were inadmissible to show that she intended to make the writing a permanent will. The authorities are in accord that to allow such a course would be to nullify the parol evidence rule, and would have the effect of permitting wills to be made partly by a writing and partly by parol. Where, however, there is a latent ambiguity in the instrument, such evidence is admitted in order to arrive at the real intent of the testator. See, on this point, the *Maxwell* and *Forquer* cases, *supra.*

WILLS—SUFFICIENCY OF DATE—OLOGRAPHIC WILL.—The date of an olographic will written thus, "9-8--18," was *held* to be insufficient under the civil code of Louisiana, which declares that in order to be valid such will "must be entirely written, dated, and signed by the hand of the testator." *Succession of Beird,* (La., 1919) 82 So. 881.

The statutory requirements as to olographic wills are strictly construed. A striking example of this strictness is furnished by the case of *Succession*